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ROGER GUARDA, CLAIMS MGR.

April 28, 2011

**Via ECF and Facsimile to (973) 645-4412**

The Honorable Michael A. Shipp, U.S.M.J.  
The United States District Court for the District of New Jersey  
Martin Luther King, Jr. Federal Building & United States Courthouse  
50 Walnut Street  
Newark, New Jersey 07101

Re: Reyes v. Keith Machinery Corp., et al.  
Civil Action No.: 2:09-CV-5309  
Our File No.: 233266

Dear Judge Shipp:

We are in receipt of a motion filed this afternoon by defendant Keith Machinery Corp. ("KMC") purported to be styled "cross motion for summary judgment in partial opposition to defendant Littleford's motion for summary judgment."

This is not a cross motion. It is being styled as such for the sole purpose of seeking to evade this Court's order setting forth deadlines for filing any motions for summary judgment. This motion cannot be considered a cross motion as no motion has been made against Keith Machinery. This motion for summary judgment is directed toward the plaintiff. The motion by the manufacturer is for summary judgment against plaintiff.

Plaintiff's opposition to the manufacturer's properly timed motion for summary judgment is due tomorrow April 29, 2011.

Defendant Keith Machinery now seeks to join in the manufacturer's motion for summary judgment, (it could have filed on April 15, 2011 in a timely manner) by characterizing it as a cross motion.

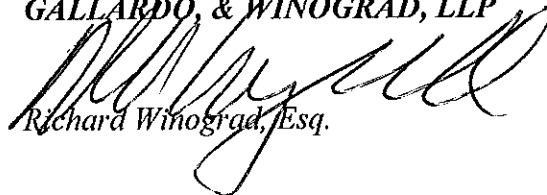
This is a blatant violation of the Court's Order and severely and unfairly prejudices plaintiff's rights to a fair proceeding. As no request for any extension of the dates for deadlines on motions was ever sought, this motion should not be considered by the Court.

We await the Court's advises as to whether plaintiff must now also respond to the distributor's untimely motion against him.

Thank you for your kind attention to this matter.

Very truly yours,

**GINARTE, O'DWYER, GONZALEZ,  
GALLARDO, & WINOGRAD, LLP**



Richard Winograd, Esq.

RMW/mr

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